

IC 12-17.4-6

Chapter 6. Regulation of Child Placing Agencies

IC 12-17.4-6-1

Operation of foster family home; restrictions

Sec. 1. (a) A person may not operate a child placing agency without a license issued under this article.

(b) The state or a political subdivision of the state may not operate a child placing agency without a license issued under this chapter.

(c) A child placing agency may not operate a foster family home if:

- (1) the number of children maintained on the premises at any one (1) time is greater than the number authorized by the license; and
- (2) the children are maintained in a building or place not designated by the license.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.55.

IC 12-17.4-6-2

Applying for licenses

Sec. 2. (a) An applicant must apply for a child placing agency license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) The applicant shall submit with the application a statement attesting the following:

- (1) That the applicant has not been convicted of:
 - (A) a felony; or
 - (B) a misdemeanor relating to the health and safety of children.
- (2) That the applicant has not been charged with:
 - (A) a felony; or
 - (B) a misdemeanor relating to the health and safety of children;during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to conduct a criminal history check.

(e) An applicant shall do the following:

- (1) Conduct a criminal history check of the applicant's employees and volunteers.
- (2) Maintain records of each criminal history check.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.56.

IC 12-17.4-6-3

Grounds for denial of license applications

Sec. 3. The following constitute sufficient grounds for a denial of a license application:

- (1) A determination by the division of child abuse or neglect (as

defined in IC 31-9-2-14) by the applicant.

(2) A criminal conviction of any of the following:

(A) A felony.

(B) A misdemeanor related to the health and safety of a child.

(3) A determination by the division that the applicant made false statements in the applicant's application for licensure.

(4) A determination by the division that the licensee made false statements in the records required by the division.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.57; P.L.1-1997, SEC.82.

IC 12-17.4-6-4

Incomplete applications

Sec. 4. The division may not act on an incomplete application. The division shall return an incomplete application with a notation concerning omissions. The return of an incomplete application is without prejudice.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-5

Investigation of applicants

Sec. 5. The division shall investigate a person seeking licensure to determine whether the person is in compliance with this article and the rules adopted under this article. The investigation shall be conducted at a reasonable time and in a reasonable manner in announced or unannounced visits. Activities may include onsite inspections, record reading, observation, and interviewing. The division may require that evidence of compliance with the rules be presented in a form and manner specified in the rules.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-6

Issuance of licenses

Sec. 6. The division shall issue a license to a person who meets all of the license requirements when an investigation shows the applicant to be in compliance under this article.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-7

Eligibility for waivers and variances

Sec. 7. A child placing agency may be eligible to receive a waiver or variance from the requirements of this chapter by complying with IC 12-17.4-2-8.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-8

Denial of licenses

Sec. 8. (a) The division shall deny a license when an applicant fails to meet the requirements for a license.

(b) The division shall send written notice by certified mail that the application has been denied and give the reasons for the denial.

(c) An administrative hearing concerning the denial of a license shall be provided upon written request by the applicant. The request must be made not more than thirty (30) days after receiving the written notice under subsection (b).

(d) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

(e) An administrative hearing shall be held in accordance with IC 4-21.5-3.

(f) The division shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-9

Investigation of unlicensed premises

Sec. 9. The division is responsible for investigating any premises that the division has reason to believe are being used for child care without a license in circumstances where a license is required.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-10

Expiration, transferability, inspection, and renewal of licenses

Sec. 10. (a) A license for a child placing agency expires four (4) years after the date of issuance, unless the license is revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the division.

(c) A child placing agency shall have the child placing agency's license available for inspection.

(d) If a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

As added by P.L.1-1993, SEC.142. Amended by P.L.234-2005, SEC.40.

Repealed

(Repealed by P.L.234-2005, SEC.192.)

IC 12-17.4-6-12

Probationary licenses

Sec. 12. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the division to correct the areas of noncompliance within the probationary period; and

(3) the division approves the plan.

(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1) additional period of six (6) months.

(c) An existing license is invalidated when a probationary license is issued.

(d) At the expiration of a probationary license, the division shall reinstate the original license to the end of the original license's term, issue a new license, or revoke the license.

(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-13

Inspections of agencies

Sec. 13. The division may conduct an inspection of a child placing agency for the sole purpose of inquiry into matters as stated in the rules, including those directly affecting the health, safety, treatment, and general well-being of the children protected under this article.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-14

Records of monitoring activities and inspections

Sec. 14. The division shall keep written records of the division's monitoring activities and onsite inspections.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-15

Cooperation by licensees

Sec. 15. The licensee shall cooperate with the division in carrying out the activities required by sections 13 through 14 of this chapter, including permitting the division to conduct announced or unannounced inspections.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-16

Records regarding children

Sec. 16. (a) A licensee shall keep records regarding each child in the control and care of the licensee that the division requires and shall report to the division upon request the facts the division requires with reference to children.

(b) The division shall keep records regarding children and facts learned about children and the children's parents or relatives confidential.

(c) The following have access to records regarding children and facts learned about children:

(1) A state agency involved in the licensing of the child placing agency.

(2) A legally mandated child protection agency.

(3) A law enforcement agency.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-17

Notice of enforcement actions

Sec. 17. The division shall give a licensee thirty (30) days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting not more than ten (10) working days after receipt of the certified notice.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-18

Administrative hearings

Sec. 18. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child placing agency. The request must be made not more than thirty (30) days after receiving notice under section 17 of this chapter. The written request must be made separately from an informal meeting request made under section 17 of this chapter.

(b) An administrative hearing shall be held not more than sixty (60) days after receiving a written request.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-19

Procedure for administrative hearings

Sec. 19. A hearing requested under section 18 of this chapter shall be held in accordance with IC 4-21.5-3.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-20

Issuance of decisions

Sec. 20. The division shall issue a decision not more than sixty (60) days after the conclusion of a hearing.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-21

Cessation of operation upon suspension of license

Sec. 21. If a license is suspended, the licensed child placing agency shall cease operation.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-22

Reinstatement of suspended licenses

Sec. 22. To reinstate a suspended license, the following must occur:

- (1) The licensee must, within thirty (30) days of the notice of the suspension, submit a plan of corrective action to the division for approval.
- (2) The plan must outline the steps and timetable for immediate

correction of the violations that caused the division to suspend the license.

(3) The division must approve the plan.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-23

Actions of division following suspensions of licenses

Sec. 23. Following the suspension, the division shall do one (1) of the following:

(1) Reinstate the license for the term of the original license.

(2) Revoke the license.

(3) Issue a new license.

(4) Deny a reapplication.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-24

Cessation of operation upon revocation of license

Sec. 24. A child placing agency shall cease operation when the license of the child placing agency is revoked.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-25

Notification of suspension or revocation of licenses

Sec. 25. (a) After a license is revoked or suspended, the division shall notify in writing each person responsible for each child in care to ensure that the children are removed.

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and must state that the license of the child placing agency has been revoked or suspended.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.58; P.L.1-1994, SEC.65.

IC 12-17.4-6-26

Judicial review

Sec. 26. A final decision of the division made after a hearing is subject to judicial review under IC 4-21.5-5.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-27

Investigation of noncompliance; injunctions; corrective action plans; informal meetings

Sec. 27. (a) The division shall investigate a report of a licensed child placing agency's noncompliance with this article and the rules adopted under this article if there is reasonable cause to believe that a licensee's noncompliance with this article and rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child and report the division's findings to the attorney general and to the county department of public welfare attorney and the prosecuting attorney in the county where the child placing agency is located.

(b) The attorney general or the county department of public welfare attorney may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child placing agency if there is reasonable cause to believe that a licensee's noncompliance with this article and the rules adopted under this article create an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(c) The division may require a plan of corrective action for emergency protection of the children described in subsection (b).

(d) An opportunity for an informal meeting with the division shall be available after the injunctive relief is ordered.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-28

Expiration of injunctions for noncompliance

Sec. 28. A court order granted under section 27(b)(2) of this chapter expires upon the later of the following:

(1) Sixty (60) days after the order is issued.

(2) When a final division decision is issued under sections 17 through 20 of this chapter if notice of an enforcement action is issued under section 17 of this chapter.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-29

Grounds for revocation of licenses

Sec. 29. The following constitute sufficient grounds for revocation of a license:

(1) A determination by the division of child abuse or neglect (as defined in IC 31-9-2-14) by the licensee.

(2) A criminal conviction of any of the following:

(A) A felony.

(B) A misdemeanor related to the health or safety of a child.

(3) A determination by the division that the licensee made false statements in the licensee's application for licensure.

(4) A determination by the division that the licensee made false statements in the records required by the division.

As added by P.L.1-1993, SEC.142. Amended by P.L.61-1993, SEC.59; P.L.1-1997, SEC.83.

IC 12-17.4-6-30

Disciplinary sanctions

Sec. 30. (a) A licensee shall operate a child placing agency in compliance with the rules established under this article and is subject to the disciplinary sanctions under subsection (b) if the division finds that the licensee has violated this article or a rule adopted under this article.

(b) After complying with the procedural provisions in sections 17

through 20 of this chapter, the division may impose any of the following sanctions when the division finds that a licensee has committed a violation under subsection (a):

- (1) Suspend the license for not more than six (6) months.
- (2) Revoke the license.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-31

Investigation of unlicensed operation; injunctions; civil penalties

Sec. 31. (a) The division shall investigate a report of an unlicensed child placing agency and report the division's findings to the attorney general and to the county department of public welfare attorney and the prosecuting attorney in the county where the child placing agency is located.

(b) The attorney general or the county department of public welfare attorney may do the following:

- (1) Seek the issuance of a search warrant to assist in the investigation.
- (2) File an action for injunctive relief to stop the operation of a child placing agency if there is reasonable cause to believe that the child placing agency is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a child placing agency is operating without a license required under this article.

(c) An opportunity for an informal meeting with the division shall be available after the injunctive relief is ordered.

(d) The civil penalties collected under this section shall be deposited in the child care fund.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-32

Expiration of injunctions for unlicensed operation

Sec. 32. A court order granted under section 31(b)(2) of this chapter expires when the child placing agency is issued a license.

As added by P.L.1-1993, SEC.142.

IC 12-17.4-6-33

Violation of chapter

Sec. 33. A person who knowingly or intentionally violates this chapter commits a Class B misdemeanor.

As added by P.L.1-1993, SEC.142.